FILED
MAR 27 1974
MICHAEL RODAK, JR., CLERK

No. 73-1044

In the Supreme Court of the United States

OCTOBER TERM, 1973

VICTOR PETRUCCI, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ROBERT H. BORK,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

In the Supreme Court of the United States

OCTOBER TERM, 1973

NO. 73-1044

VICTOR PETRUCCI, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

Following a jury trial in the United States District Court for the Central District of California, petitioner was convicted on seven counts of violating various provisions of the Gun Control Act of 1968, 18 U.S.C. 922 *et seq.*, and on one count of possession of unregistered firearms, in violation of 26 U.S.C. 5861(d). He was sentenced to concurrent terms of eighteen months' imprisonment, the first six months to be served in a jail-type institution with the remainder of the sentence to be suspended, and was placed on probation for three years to begin upon his release from confinement. The court of appeals affirmed (Pet. App. A).

Petitioner contends (1) that the government should have been required to show that his activities had an interstate nexus, (2) that the trial court erred in instructing the jury that the government need not establish

willfulness, and (3) that the search for and seizure of the firearms impermissibly exceeded the scope of the investigating officers' warrant. These contentions were all considered and properly rejected by the court of appeals in an opinion (Pet. App. A) on which we rely.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ROBERT H. BORK,
Solicitor General.

MARCH 1974.